

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

BRIAN LEE BRUSH,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-cv-909

MARTY ANDERSON, FCI Beckley,

Defendant.

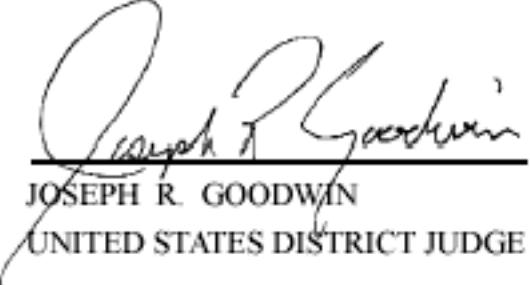
**MEMORANDUM OPINION AND ORDER**

Pending before the court is the petitioner's motion under 28 U.S.C. § 2241 for a Writ of Habeas Corpus by a Person in State or Federal Custody. This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court **DISMISS** the petitioner's application under § 2241 as moot.

Neither party has filed objections to the Magistrate Judge's findings and recommendation. Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge, and **DISMISSES** the petitioner's § 2241 application as **MOOT**.

The court **DIRECTS** the Clerk to send a certified copy of this Written Opinion and Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: May 3, 2005

  
JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE